

ACQUISITION ADVISORY PANEL

Meeting Minutes

August 18, 2005

The Auditorium, Federal Deposit Insurance Corporation (FDIC)
Washington, D.C.

The Acquisition Advisory Panel (AAP) convened its tenth meeting on August 18, 2005 in the Auditorium at the Federal Deposit Insurance Corporation (FDIC), Washington D.C. Ms. Marcia Madsen, Chair of the Acquisition Advisory Panel, opened the meeting at approximately 09:05 AM.

The Chair welcomed everyone to the meeting and indicated there was a very full agenda. Ms. Madsen briefly reviewed the agenda and remarked that the AAP is continuing its new venue of mini-panels to enhance dialogue. The Chair stated that today's mini-panel topics were the use of time and material contracts and commercial practices.

The guest speakers and their affiliations were as follows:

Ms. Geraldine Watson	General Services Administration (GSA)	
Mr. David Ricci	Defense Contract Management Agency	(Attachment 1)

Time and Materials (T&M) Panel:

Mr. Michael Bridges	General Motors Corporation	
Mr. Michael Del-Colle	Coalition for Government Procurement	(Attachment 2)
Mr. Bhavneet Bajaj	Technology Partners, Inc.	
Mr. Bruce Leinster	Information Technology Association of America (ITAA)	(Attachment 3)

Commercial Practices Panel:

Mr. Larry Trowel	General Electric Transportation	
Mr. Michael Bridges	General Motors Corporation	
Mr. Ronald Casbon	Bayer Corporate Business Services	
Mr. Jerome Punderson	NAVSEA, Seaport –e Program	(Attachment 4)
Ms. Claire Grady		
Mr. Mark Stelzner	EquaTerra Public Sector	(Attachment 5)

The Chair turned the meeting over to the Designated Federal Officer (DFO) to call the roll.

Ms. Laura Auletta, the AAP's DFO, called the roll. The following Panel members were present:

Mr. Louis M. Addeo
Mr. Frank J. Anderson, Jr.
Mr. Carl DeMaio
Mr. Marshall J. Doke, Jr.
Mr. Jonathan Lewis Etherton
Mr. James A. (Ty) Hughes, Jr.
Mr. David A. Javdan (arrived late: 9:15 AM)
Mr. Thomas Luedtke
Ms. Marcia G. Madsen
Mr. Joshua I. Schwartz (arrived late: 9:15 AM)
Mr. Roger D. Waldron

The following Panel members were not in attendance:

Dr. Allan V. Burman
Mr. David A. Drabkin
Ms. Deidre A. Lee

The Chair introduced the first guest speaker, Ms. Geraldine Watson, the Director of the Management Services Center, GSA in Auburn, Washington. Ms. Auburn thanked the Chair for the opportunity to speak to the Panel. She provided an overview of her organization and its functions. Ms. Watson focused her remarks on the process used by her organization to award multiple award schedules, specifically noting the responsibilities for GSA and ordering activities. After her short remarks, there was significant discussion on various processes used at GSA in awarding and administering the basic contract and the applicable task orders. Ms. Watson recommended that clauses be developed for the Contracting Officer Representatives (CORs) to remedy poor performance. She also discussed in detail the challenge in normalizing labor rates for consulting services, specifically the difficulty in comparing labor categories from one company to the next. Ms. Watson explained that Federal Supply Service (FSS) is operating in a sole source environment where competition is not present until the user community competes their requirements. Areas of discussion also included pricing the vehicles at basic and task order levels, use of cost and pricing data, roles and responsibilities of GSA and the ordering activities, fees, termination due to non-performance, definition of "commercial services," data collection and recommendations to improve interagency vehicles award processes. Ms. Watson entertained questions from the Panel members.

Panel Chair Marcia Madsen and Panel members Carl DeMaio, Joshua Schwartz, Frank Anderson, Ty Hughes, Marshall Doke, Jonathan Etherton and Louis Addeo asked several questions regarding the ordering procedures and processes used by GSA. It included the competitive bidding process, roles and responsibilities of the assisting and requiring agencies, training, contract management issues including the need for quality assurance plans and data integrity issues. In addition, there was much discussion on the pricing of commercial items and definition of commercial services, specifically the use of cost or

pricing data, most favored customer pricing, determining price reasonableness of labor categories, and obtaining adequate support on quantities sold to the public. Several panel members discussed the impacts to the acquisition workforce, including the need for consistent policies and training on interagency vehicles for both the assisting and requiring agencies, and the impact of continuous reductions of the acquisition workforce over the past several years.

The Chair thanked Ms. Watson for her time, and insightful comments and recommendations. Ms. Madsen confirmed with Ms. Watson that she would provide the additional materials requested by Panel members during the discussion (identified at the end of these minutes) and, if needed, lend support to the various working groups.

The Chair introduced the second speaker, Mr. David Ricci and his colleague, Ms. Felisha Hitt. Ms. Madsen stated that Mr. Ricci is the Director, Contract Business Operations at Defense Contract Management Agency (DCMA) and Ms. Hitt is a Contract Specialist at DCMA Headquarters (HQ). Mr. Ricci thanked the Panel for the invitation to speak, and encouraged questions throughout his presentation. Mr. Ricci gave a short overview of DCMA, including its span of control and scope of work. He provided data on the number of services contracts, its typical contract profile and breakout of resources by function. Mr. Ricci discussed the Federal Acquisition Regulation (FAR) definition of “services” and noted the definition was very broad and recommended refinement. He noted that of the 97,000 service contracts that DCMA administers, approximately 65,000 are deemed routine and, as such, are managed by exception. Mr. Ricci recommended that the Panel consider the use of a Contracting Officer Representative (COR) to manage service contracts for improved contract performance. He discussed T&M contracts and noted the recent FAR change related to the 5% withholding. He recommended that the Panel consider expressly allowing the use of a fixed material handling rate to assist with contract closeout and requiring that final acceptance documents be provided to the Administrative Contracting Officer (ACO) in a timely manner. Mr. Ricci concluded his presentation by providing an overview of small business subcontracting plans, including existing contractual and administrative remedies and recommendations for improvement. Mr. Ricci entertained questions and comments from the Panel.

Panel members David Javdan, Joshua Schwartz, and Carl DeMaio asked questions regarding subcontract management, specifically timely payments to subcontractors, Government remedies available for delinquent payments, and the need for post payment audits. The Panel members were particularly interested in the impact to small, and small and disadvantaged businesses. The challenges of monitoring contract performance and limited acquisition resources and training issues were discussed. Mr. Ricci emphasized the importance of having key contract management personnel involved in the acquisition planning process to ensure adequate contract performance. Panel members Marshall Doke and Ty Hughes also asked specific questions related to commercial pricing, such as use of cost or pricing data on DCMA administered service contracts.

The Chair thanked Mr. Ricci and Ms. Hitt for their presentation. The Chair called for a ten-minute break.

The Chair, Ms. Madsen, recused herself for the duration of the T&M and commercial practices mini-panels.

The Acting Chair, Ty Hughes, reconvened the meeting at 11:00 AM and introduced the representatives of the T&M mini-panel. They included Mr. Michael J. Bridges, Attorney for General Motors Corporation, Mr. Michael Del-Colle, Accenture (on behalf of the Coalition for Government Procurement), Mr. Bhavneet Bajaj, Director, Financial Practice, Technology Partners, Inc. and Mr. Bruce Leinster, consultant to IBM (on behalf of Information Technology Association of America (ITAA)). All mini-panel members provided brief remarks prior to the open discussion, specifically addressing their various organizations' service lines, typical use of T&M contracts and recommendations for improvement. Mr. Leinster read a prepared statement, making several points regarding the use of T&M contracts, specifically noting that they are an appropriate contract vehicle in situations where the scope of work is not defined. Mr. Leinster stated most contractors would prefer fixed-price contracts if the scope of work is reasonably established. He emphasized that there are significant incentives in place to help ensure successful performance of T&M contracts and that controls do exist to ensure that pricing on commercial T&M contracts is fair and reasonable. Mr. Del-Colle echoed similar comments regarding the benefits of T&M contracts in certain situations. He stated that T&M contracts permit effective cost control and provided flexibility when requirements are not defined. Mr. Del-Colle concluded by stating that T&M contracting is a valid, valuable, flexible tool that, if properly used, can control costs. He stated that it might be a better alternative than firm fixed-price (FFP) contracts in certain situations. Mr. Bajaj indicated that while T&M contracts are useful in certain situations, the preferred end state is to convert these services to FFP once the baseline costs and requirements are fully defined. Mr. Bridges provided an overview of the GM model and indicated that they also preferred a fixed price environment. He discussed the importance of strategic sourcing and developing long-term partnerships with suppliers. There was much discussion on the use of FFP versus T&M contracts, the pricing methods, governance/administration, performance measures and best value to the taxpayer. All representatives agreed that more training and education are needed across the federal acquisition workforce. The Acting Chair requested that the mini-panel members provide additional information to the Panel, and then opened up the floor to additional questions.

Panel members Thomas Luedtke, Joshua Schwartz, Carl DeMaio, Marshall Doke, Jonathan Etherton, and Roger Waldron asked several questions related to the use of T&M contracts for commercial services. Some of the specific discussions involved determining when it is appropriate to use T&M versus FFP contracts, standard terms and conditions used by industry to safeguard the buyer and seller, best industry practices related to outsourcing, and pricing mechanisms used to determine reasonableness when there is only one bidder. In addition, there was significant discussion on the training programs, education and experience levels that industry requires throughout their hiring, and continuous development of their procurement professionals. There was also some discussion on the adequacy of the current federal regulations, specifically related to FAR Part 12. Mr. Trowel stated that he would like to see it used more, but noted that it is not

applicable to everything the Government buys. Since he was involved in the writing of FAR Part 12 when he was part of the Defense Acquisition Regulation (DAR) Council, he added that the intent was to write very little to create framework where contracting officers could understand how the marketplace functioned and how contractors contracted in a commercial environment. He concluded that in this end FAR Part 12 was effective. Some of the Panel members also inquired about the industry's best practices related to competition and the down-select processes. There were other specific questions targeted to small business, specifically related to the number of prime and subcontract awards to small business, subcontract management and consent to subcontract.

The Acting Chair thanked the mini-panel members for their time and active participation in the open discussions. The Acting Chair adjourned for a one-hour lunch at 12:35 PM.

The Acting Chair, Mr. Ty Hughes, reconvened the meeting at 1:30 PM and introduced the representatives of the Commercial Practices mini-panel. They included Mr. Michael J. Bridges, Attorney for General Motors Corporation, Mr. Larry Trowel, General Manager, Government Contracts, General Electric Transportation, and Ronald D. Casbon, Director, Indirect Materials Procurement, Bayer Corporate Business Services. All Panel members provided an overview of their organization and mission, business/service lines, and recommendations for improvement. Mr. Trowel read a prepared statement. Mr. Trowel noted that he was involved in the writing of the FAR Part 12 as a member of the Defense Acquisition Regulation (DAR) staff. He provided an overview of how General Electric's (GE) prices its overhaul and repair of engines, noting that it is based on scientific data and analysis of risk. He cautioned the Panel against revising the definition of commercial services as it may become more restrictive to both government and industry. Mr. Casbon and the other Panel members agreed, and stated that the forces in the marketplace should serve as adequate competition and in determining that a price is fair and reasonable. Mr. Bridges provided comments on General Motors' (GM) commercial practices and emphasized the importance of understanding one's requirements and having the internal expertise of those marketplaces to achieve the best overall value. There was much discussion and dialogue on various aspects of commercial pricing, down-select processes, best value determinations, terms and conditions, workforce and training issues, and best commercial practices. The mini-panel was asked to provide the DFO with samples of terms and conditions used for commercial items and other best practices that may be of assistance to the SARA Panel. The Acting Chair asked the Panel for questions.

Acting Chair Ty Hughes and Panel members Marshall Doke, Thomas Luedtke, Jonathan Etherton and Roger Waldron asked several questions regarding the adequacy of FAR Part 12, specifically related to any potential improvements based on best commercial business practices. The presenters noted differences in the procurement processes; for example, the Government tends to be an "a la carte" buyer that procures items on an as needed basis, whereas commercial businesses tend to use more strategic planning models and facilitate long-term agreements with industry partners. There were additional remarks regarding the key elements of a partnership, including shared knowledge of the product, pertinent data, and honesty and trust. Some additional comments and questions revolved around the Disputes clause, use of Alternative Disputes Resolution (ADR) and U.S. judicial tribunals. The representatives commented that the ultimate default is the U.S. judicial tribunals;

however, industry does not normally build in arbitration or binding arbitration into their agreements. The mini-panel members added that, generally, a joint solution is obtained and that, in some cases, issues are escalated to senior levels for resolution. There was also significant discussion on the pricing and awarding of commercial items, including the use of cost or pricing data, competition, re-competing and down-select processes. The Panel asked questions on the use and benefits of strategic sourcing and reliance on spend analysis to manage future requirements. Specifically, the representatives outlined the steps needed to determine “spend areas,” which included identifying the requirements, analyzing solutions to satisfy the requirements, identifying and selecting the supplier(s) that can satisfy the requirements, and finally validating and measuring the results. Panel member Joshua Schwartz also asked several questions related to procurement workforce in the commercial sector, specifically on industry’s hiring and retention requirements related to education and experience levels. The Panel members were also interested in how the commercial sector supports federal socio-economic programs and if the companies track data on awards to small and small and disadvantaged businesses.

The Acting Chair thanked the representatives for their time and participation in the mini-panel discussions.

The Chair, Ms. Madsen introduced the next two speakers from NAVSEA, Mr. Jerome Punderson, Program Manager, SeaPort-e, and Ms. Clair Grady, Director of Strategic Initiatives for the Contracts Directorate. Mr. Punderson provided some background information and an overview of the SeaPort and SeaPort-e initiatives. He noted that the purpose of the initiatives is to improve the acquisition of program management, engineering, logistics and financial management services. He also outlined the task order process, stating that the contracting officers must consider cost, price, past performance and technical acceptability. Mr. Punderson outlined the seven SeaPort-e geographic zones, and stated that the task orders solicited in the zone correlates to the principal place of performance. Mr. Punderson provided a breakout of small and large contractors by zone, indicating their continued commitment to small business. Specifically, each zone contains a range of 242 - 449 small businesses versus 103 - 127 large contractors. Mr. Punderson added that contractors also have the ability to pick multiple zones. Ms. Grady discussed the program’s benefits, noting that synopsis and formal source selection plans are not required. She added there is also limited protest liability under FAR Part 16 and a significant reduction in the acquisition cycle time. Mr. Punderson discussed the business intelligence and metrics captured in their database, including cycle time, workload, dollars obligated, small business participation and performance evaluations. Mr. Punderson provided some graphical depictions of the reports and charts generated from their real-time reporting system. Mr. Punderson and Ms. Grady entertained questions from the Panel members.

Panel Chair Marcia Madsen and Panel members Joshua Schwartz, Ty Hughes, Roger Waldron, Jonathan Etherton and Thomas Luedtke asked several questions related to the process and procedure used in pricing and awarding contracts. Specifically, there was significant discussion on competition, how widespread it is and the pricing determinations if only one bid is received. Mr. Punderson indicated that every supplier that holds a

contract in a specific zone has an opportunity to bid. He continued to explain the various nationwide zones and, ultimately, how the structure creates an environment to achieve effective competition at the task order level. The Panel members discussed the NAVSEA policy stating that SeaPort-e is a “mandatory vehicle of choice.” The NAVSEA representatives indicated that the vehicle should be used unless it makes good business sense to use another vehicle. Mr. Punderson stated that there is review and approval process in place (usually at the Flag Officer or Senior Executive level) to use outside contract vehicles. The Panel asked specific questions regarding the use of other governmentwide interagency vehicles, such as the Federal Supply Schedules. Mr. Punderson reiterated that other contract vehicles could be used if a business case was made and approved at the appropriate levels. He noted the reason for the internal policy is that NAVSEA has limited visibility and business intelligence on how its funds are spent at others agencies, such as GSA or the Department of Interior (GovWorks). Other topics of discussion surrounded specifics on their business information system and its ability to provide performance data regarding savings, cycle time, customer satisfaction, small business participation, workload, dollars obligated, expiring options and cost reductions achieved. The Chair thanked the presenters for their participation and noted that the DFO would be following up with them on the list of items requested during the presentation.

The Chair introduced the next speaker, Mr. Mark Stelzner and thanked him for his patience and willingness to present to the Panel. Ms Madsen stated that Mr. Stelzner is the Executive Vice-President of EquaTerra. Mr. Stelzner thanked the Chair for the opportunity to speak to the Panel. He provided a background on EquaTerra Public Sector and stated that his organization is focused on advisory services on life cycle approaches relative to strategic sourcing transactions. Mr. Stelzner noted that the business unit is focused on applying commercial best practices to the unique requirements of public entities. Mr. Stelzner replied affirmatively when Ms. Madsen asked if EquaTerra is a consulting firm that assists other organizations with running their outsourcing. Mr. Stelzner discussed three specific commercial best practices that have direct application to the success or failure of public sector acquisition and sourcing. These included the deployment of a lifecycle approach to ensure that the cost savings are realized; applying governance and relationship management as a critical and effective means for value assurance and enhancement; and the critical nature of independent conflict-free advice and guidance as an accelerant to attaining mutually beneficial outcomes. Mr. Stelzner stated that the lifecycle approach is comprised of four main phases: knowledge and education, strategy and assessment, sourcing and relationship management, and governance. He provided additional details on these four phases, making special note of the importance of relationship management. Mr. Stelzner described relationship management as the work associated with the continuous alignment of the expectations of all stakeholder groups. He added that complex agreements are especially dependent upon strong relationship management to both adapt to changes unanticipated by the contract and to achieve long-term goals. Mr. Stelzner also discussed two other steps of good governance, effective change management and joint planning. He noted that it is critical to understand each party’s strengths and goals in order to build a shared future vision among diverse stakeholders. Mr. Stelzner entertained questions from Panel members Joshua Schwartz, Ty Hughes, David Javdan and Jonathan Etherton related to outsourcing, use of contractor

support and conflict of interest issues. Professor Schwartz asked Mr. Stelzer if he would be available to speak further with the Acquisition Workforce Working Group and Mr. Stelzner replied he would be glad to provide additional support to the Panel.

The Chair thanked Mr. Stelzner for his presentation to the Panel.

Below is a list of additional materials or information requested by the Panel during the guest speakers' presentations:

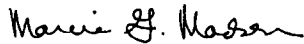
- Ms. Geraldine Watson – GSA:
 - Contract terms and conditions that allow the Government the right to ask that a contractor employee be removed for under-performance
 - Provide the pricing tool (database) that GSA created to assist in pricing decisions during negotiation
 - Any guidelines, checklists, policies or direction used by GSA on pricing awards (local and GSA-wide)
 - Provide information on what problems tie GSA's hands regarding the commercial item description, and recommendations to improve or fix these problems
- Time and Material Panel:
 - Mr. Michael Del-Colle -Coalition for Government Procurement
 - Examples of Terms and Conditions on Time and Material contracts
 - Mr. Bruce Leinster - Information Technology Association of America
 - Examples of Terms and Conditions on Time and Material contracts
 - Mr. Michael Bridges – General Motors
 - List and/or breakout across functional lines of acquisition experts
- Mr. Jerome Punderson, NAVSEA, SeaPort-e
 - Copy of the Concept of Operations (CONOPS) – Exceptions
 - Small Business Award Data
 - Basic reports on competition, such as number of offerors obtained, etc.

The Chair asked if Panel members had any additional questions. Because no questions were forthcoming, Ms. Madsen concluded her remarks by thanking the Panel, and remarked that there will be working group meetings prior to the next public AAP meeting scheduled for September 27, 2005 at FDIC, Washington, D.C.

ADJOURNMENT

The DFO adjourned the tenth Acquisition Advisory Panel meeting at 4:40 PM.

I hereby certify that, to the best of my knowledge, the foregoing minutes are accurate and complete.



Ms. Marcia G. Madsen
Chair
Acquisition Advisory Panel

NOV 16 2005

Index of Attachments to Minutes
Acquisition Advisory Panel
August 18, 2005
Federal Deposit Insurance Corporation (FDIC)

Attachment 1 – Mr. David Ricci (Defense Contract Management Agency)

Attachment 2 – Mr. Michael Del-Colle (Coalition for Government Procurement)

Attachment 3 – Mr. Bruce Leinster (Information Technology Association of America)

Attachment 4 – Mr. Jerome Punderson (NAVSEA – Seaport-e)

Attachment 5 – Mr. Mark Stelzner (EquaTerra Public Sector)

Attachment 1



DCMA

Acquisition Advisory Panel Briefing

Presented By:

David E. Ricci

Director, Contract Business Operations

August 18, 2005

Agenda

- **DCMA Overview**
- **Service Contract Overview**
- **Managing Service Contracts**
- **Time and Material Contracts**
- **Small Business**

DCMA Overview



Span of Control

- 10,479 Civilian Professionals
 - ACOs, PI, QA, Engr, IS, Prop, Transp
- 605 Military (includes reserves)
- 900+ Locations
- 50 Major Field Commands
- \$1.1B Budget Authority
- \$50M NASA and Other Federal Agencies
- \$67M Reimbursable FMS

Scope of Work

- \$1,812B Face Value of Contracts
- 15,029 Contractors
- 298,678 Contracts
- \$154B Unliquidated Obligations
- All ACAT 1 and 2 Programs
- Flight Operations (1,150 Aircraft/Yr)
- \$92B Gov't Property in Plant
- \$7B Progress Payments
- \$16B Performance Based Payments





DCMA Service Contract Overview

Defense Contract Management Agency


The Numbers		DCMA Resources			
# of Service Contracts	97,000	% of Basic Administration		5.9%	
Research & Development	20,000	<i>Breakout of Total Hours Spent:</i>			
Repair, Overhaul/Maintenance	12,000	1102s	46%	1106s	14%
Other Services	65,000	1910s	16%	1150s	4%
% of DCMA Contracts	31%	Others	20%		
% of DCMA Face Value	22%				
% Flexibly Priced	>80%				
Typical Contract Profile					
<ul style="list-style-type: none">• Repair/Maintenance, Engineering & Technical Services• Cost or Flexibly Priced with COR Destination Acceptance• High Volume of Task Orders under Indefinite Delivery Contracts					

Managing Service Contracts

FAR Definition of “Service Contract” (FAR 37.101)

“Service contract” means a contract that directly engages the time and effort of a contractor whose primary purpose is to perform an identifiable task rather than to furnish an end item of supply. A service contract may be either a non-personal or personal contract. It can also cover services performed by either professional or nonprofessional personnel whether on an individual or organizational basis. Some of the areas in which service contracts are found include the following:

- (1) Maintenance, overhaul, repair, servicing, rehabilitation, salvage, modernization, or modification of supplies, systems, or equipment.
- (2) Routine recurring maintenance of real property.
- (3) Housekeeping and base services.
- (4) Advisory and assistance services.
- (5) Operation of Government-owned equipment facilities, and systems.
- (6) Communications services.
- (7) Architect-Engineering (see Subpart 36.6).
- (8) Transportation and related services (see Part 47).
- (9) Research and development (see Part 35).



Very Broad
Definition --
Covering a Variety
of Services

Managing Service Contracts

Categories of DCMA Service Contract Management:

1. Maintenance (12,000 Contracts)
 - Maintenance, Overhaul, Repair and Modification of DoD Aircraft
2. Research & Development (20,000 Contracts)
 - Design, Developing, Testing and Prototypes.
3. “Routine” Service Contracts (65,000 Contracts)
 - Advisory & Assistance Services
 - Studies, Analyses and Evaluations
 - Engineering and Technical Services

Limited CAS
Required for
“Routine” Service
Contracts

Managing “Routine” Service Contracts

- **Contract Management By Exception**
 - **Business System Review**
 - **Request Periodic Surveillance of Labor Hours (to ensure proper charging of hours and types of labor)**
 - **Modify Delivery Dates**
 - **Payment Support**
 - **Manage Withholds, When Necessary**
 - **Resolve Payments Issues**
 - **Identify Excess Funds**
 - **Establish Final Rates**
- **Property and Plant Clearance**
- **Small Business Oversight**
- **Subcontract Clause**



**A Sample of CAS Functions
Not Performed on Routine
Service Contracts –**

- **Monitoring Performance**
- **Quality Assurance/Acceptance**
- **Engineering Analysis/Surveillance**

Managing Service Contracts

- Recommendations for Panel Consideration
 - Contracting Officer's Representative Should Manage Service Contracts
 - Recognize Definition of "Service Contracts" May Be Too Broad and Require Redefining – or Grouping for Better Management
 - Service Contracting Rules – One Size Doesn't Fit All

Overhaul/Repair



Housekeeping/Base Services



Time & Materials Contracts

- Managing T&M Task Order Contracts

- FAR Clause 52.232-7, Payments Under Time and Materials and Labor Hour Contracts



- Contracting Officer ~~Shall~~ May Require a Withhold of 5% of Amounts Due (not to exceed \$50,000) (Ref: FAR Case 2004-003; FAC 05-05)
- Completion Invoices Shall be Submitted Promptly as Practicable Following Completion of Work – But No Later Than 1 Year From the Date of Completion
- Contracting Officer May Request Audit of invoices or vouchers and substantiating material

- Recommendations for Panel Consideration

- Require Final Acceptance Documents be Provided to Contracting Officer in a Timely Manner
- Expressly Allow for Use of Fixed Material Handling Rate

DCMA Small Business Subcontracting

- **DCMA Focus**
 - Assist with Evaluations of Subcontracting Plans
 - Monitor, Evaluate, and Document Contractor Performance Under FAR Clauses and Subcontracting Plans
 - Small Business Specialists at Most CMO Locations
- **Policy Changes**
 - SBA and DCMA Agreed to Use Uniform Rating Criteria
 - Automation Needs Identified and System Being Developed (SBA and DCMA)
 - FAR Proposed Rule, Case 2004-012, Ensures Subcontract Management is Addressed During Past Performance Evaluation
- **Small Business Subcontracting Plans**
 - Extent of Review - Historical Trend Analysis, Past Performance Information, and Recommendations Upon Which to Base Negotiations
 - Review Established Procedures to Ensure Timely Payment to Subcontractors
 - Goals – Compare % Goals to % Achievements



Evaluations
Available for 60%
of Federal
Contractors and
99% of DoD
Contractors

- Existing Remedies to Ensure Timely Payment to Subcontractors
 - FAR Clause 52.219-8 Utilization of Small Business Concerns,
 - Recommend Removal from Direct Billing Program
 - High Risk Ratings on Subcontracting Plans
 - Decrement Billing Rates
 - Withhold or Suspend Payments
 - Paid Cost Rule (52.232-7; 52.216-7; 52.216-26; 52.232-16)
- Recommendations for Panel Consideration
 - Increase Small Business Awareness of Government Points of Contact for Recourse
 - Include Subcontract Management in Evaluation Criteria for Determining Award Fee under Cost Plus Award Fee Contracts.
 - Expedite Deployment of Automation System Providing Contracting Officers Insight into Subcontract Management Performance Results for Source Selection

TABLE 16-1. PERFORMANCE EVALUATION CRITERIA

		Submarginal	Marginal	Good	Very Good	Excellent
A	(A-1)	Consistently late on 20% plans	Late on 10% plans w/o prior agreement	Occasional plan late w/o justification	Meets plan schedule	Delivers all plans on schedule & meets prod. Change requirements on schedule
Time of Delivery	Adherence to plan schedule					

Questions/Discussions

COALITION FOR GOVERNMENT PROCUREMENT

T&M CONTRACTING:

A QUALITY ASSURANCE PERSPECTIVE

August 18, 2005

ABOUT THE COALITION

- Multi-industry Association of over 330 Schedule and GWAC Contract Holders
- Large, Small, and Medium Commercial Companies
- Twenty-Six Years of Working with People in Government for Common Sense Procurement Policies

COMMERCIAL MARKET USE OF T&M CONTRACTING

- Coalition Member Firms DO Use T&M Contracting in their Commercial Work
 - T&M contracts permit effective cost control
 - T&M contracts provide flexibility

HOW/WHY T&M IS USED COMMERCIALY

- Controls Costs by Utilizing Market Rates, Yet Allows Project Costs to be Capped with Dollar Ceilings
 - Avoids locking in artificially low rates that make attracting trained and qualified professionals difficult
 - Conversely, there is no need to pay a premium for COBOL programmers post Y2K
- Permits Rapid Response, Providing for an Increase or Decrease in Personnel without Delay
- Allows for Projects with Many Variables, Improving Administrative Efficiency and Opportunity

T&M AND SUBCONTRACTING

- Important Tool for Primes to Control Costs
 - Fixed price contracts can have variables at sub level
 - Primes can distinguish between intended work vs. actual work
 - Primes can conform staff levels to client needs, allowing the easy use of a variety of subs to meet specific tasks
- Effective Cost Tracker/Performance Evaluator
 - Non-performing subs can be suspended by prime w/o risking government money or government litigation

T&M IN GOVERNMENT

- Compels Managers to Manage to Appropriated Line Items, Increasing Efficiency
- Affords the Ability to Validate Pricing in the Presence of Adequate Market Data
- Serves as an Easy and Effective Cost Tracker and Allows for the Suspension of Non-Performers
- Permits Dollar Ceilings to be Applied to Costs
- Specifically Authorized by SARA

THE BOTTOM LINE

- T&M Contracting is a Valid, Valuable, Flexible Tool
- Properly Used, it Can Control Costs
- May be a Better Alternative than FFP Contracts in Certain Situations

QUESTIONS

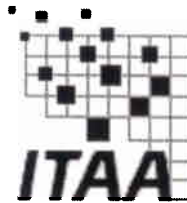
THANKS FOR YOUR TIME

Coalition for Government Procurement

202-331-0975

Info@thecgp.org

Attachment 3



Acquisition Advisory Panel Public Hearing Statement

August 18, 2005

Bruce Leinster, IBM

On behalf of the

Information Technology Association of America

Good afternoon. My name is Bruce Leinster, and I am appearing today on behalf of the Information Technology Association of America (commonly called the "ITAA"). For those of you who are unfamiliar with ITAA, it is the leading association of information technology companies. ITAA provides global public policy, business networking, and national leadership to promote the continued rapid growth of the IT industry. The ITAA consists of just under 400 corporate members throughout the United States, and a global network of 47 countries' IT associations. The Association plays a leading role in addressing policy and legal issues that affect the IT industry, including government IT procurement. ITAA members range from the smallest IT start-ups to industry leaders.

My comments today are based on my 36 years of service with IBM. Prior to my retirement in 2004, I served as the Director of Contracts for IBM's Public Sector Industry. In that capacity, I managed IBM's team of professional contract negotiators responsible for the negotiation and contract support of all of IBM's unique solutions offered through its Federal Systems Division as well as IBM's vast commercial products and solutions being offered by the company today. In retirement I continue to represent IBM in a consulting capacity.

I have six points I would like to make regarding T&M contracts, and these are as follows:

Point 1. T&M Contracts Are Appropriate Contract Vehicles In Situations Where the Scope of Work Is Not Defined Upfront With Reasonable Certainty.

T&M contracts serve a valuable role in the acquisition process when the factors set out in FAR 16.601 are present; that is, (1) it is not possible at the time of placing the contract or task order to estimate accurately the extent or duration of the work, or (2) it is not possible to anticipate costs with any reasonable degree of certainty. In these situations, T&M or labor-hour contracts may be the only viable contract vehicles. Firm-fixed-price contracts are inappropriate when these factors are present because firm-fixed-price payment terms present an unreasonable amount of risk for contractors and would unduly restrict competition to those contractors willing to assume very high risk. On the other hand, use of cost-reimbursement contracts in these situations may eliminate many commercial

companies wishing to do business with the Government but that do not have the infrastructure in place to comply with Government-unique cost accounting rules.

The reasons why firm-fixed-price contracts are not in furtherance of the Government's interests when the scope of work cannot be defined upfront with reasonable certainty was expressed succinctly by the General Accountability Office in a 1990 decision, captioned Four Star Maintenance Corp., B-240413, Nov. 2, 1990, 91-1 CPD ¶ 70. The Four Star Maintenance case involved a proposed facility maintenance contract that did not reasonably confine the volume of work that the contractor would be required to perform. GAO provided the following rationale in ruling that the use of fixed-price terms was inappropriate:

“[W]e think that the requirement to perform most of the work under the contract at a fixed monthly price involves risks to the contractor and the government that outweigh any advantage it might offer by deterring some unnecessary work. First, if the contractor builds into its prices contingencies to cover the possibility that the work required will exceed the RFP estimates, and the agency ultimately requires less than the estimated work, *the government will pay more* for the work than if payment were based upon fixed quantities or unit prices. Under this scenario, the contract *would not result in the lowest cost to the government*. Conversely, if the contractor bids based on the cost of performing the estimated work, without including the cost of work in excess of the estimates, and the agency ultimately requires work in excess of the estimates, the contractor would be required to perform all additional work at no cost. We think this is *unfair and unwarranted* where not necessitated by some strong agency need.”

GAO reached a similar conclusion in a 1999 bid protest case, captioned, BMAR & Associates, Inc., B- 281,664, March 18, 1999, 99-1 CPD ¶ 62, which involved a fixed-

price solicitation for civil engineering services.

Accordingly, there are contract scenarios where a T&M or labor-hour contract would best serve the Government's interests.

Point 2. It Is Not Always Possible or Desirable to Define the Work Upfront Sufficiently To Provide for a Firm-Fixed Price Contract.

A good example of this is when a contractor accompanies U.S. military personnel during contingency operations or is performing disaster recovery operations. In these situations the duration or the amount of manpower necessary to perform the required services, more likely than not, cannot be estimated with any reasonable degree of certainty. To a lesser degree the same can be said regarding certain IT or facilities support services where there is no reliable historical track record upon which to predict the extent or duration of work or it is otherwise not possible to estimate user or customer demand for the service.

The Panel has asked whether there should be a distinction between providing services identified with a specific task or outcome versus providing services that amounts to "buying people at desks." To the extent the Panel's question is directed at use of T&M terms for such services, we believe that T&M payment terms would be appropriate under either scenario so long as (1) it is not possible at the time of placing the contract or task order to estimate accurately the extent or duration of the work, or (2) it is not possible to anticipate costs with any reasonable degree of certainty.

Point 3. Most Contractors Would Prefer Fixed-Price Contracts if the Scope of Work Is Reasonably Established.

Most contractors would prefer to perform work on a firm-fixed-price basis than on a T&M basis if the scope of work is such that a contractor can reasonably measure the amount of risk inherent in the work. In our view, firm-fixed-price contracts offer the following benefits over T&M contracts:

- Greater management flexibility in performing the work.
- Less Government oversight than compared to T&M or cost reimbursement payment terms.
- The potential for greater returns on investment.

As I have indicated with Point 2, however, it is not always reasonable to attempt to price certain kinds of work on a firm-fixed-price basis.

Point 4. T&M Contract Terms Are Used in the Commercial Marketplace for the Same Reasons They Are Used in the Federal Government Marketplace.

An informal survey of ITAA membership has confirmed that IT service providers often enter into T&M contracts when the work cannot be defined with any reasonable degree of certainty at the outset, where the contractor may be required to ramp up or ramp down quickly as the volume of work changes, or where the project otherwise is too risky for firm-fixed-price bidding. Such contracts may include large IT repair and maintenance services contracts, system integration efforts where the nature of the customer's existing infrastructure has not been defined with reasonable specificity, custom software programming to be provided on an "as needed" basis, and certain IT support services (such as help desks) where the customer is unable to set confines on the volume of work.

For example, as a *buyer* of services, IBM last year acquired approximately \$1.2 billion in technical services on a T&M basis.

There are times when IT service providers are willing to use either T&M or firm-fixed-price terms, provided that they are able to include a sufficient contingency amount in their pricing to cover any risk with respect to the scope or duration of work. Pursuant to the Sarbanes-Oxley Act of 2002, it is the corporation's responsibility to have a system in place to control risks, including risks associated with Government contracts.

Point 5. There Are Significant Incentives in Place that Help Ensure Successful Performance of T&M Contracts.

Some critics of T&M contracts argue that T&M contracts do not provide sufficient motivation for contractors to perform efficiently. But this argument seems to ignore the reality that contractors are subject to significant built-in incentives to perform T&M (as well as other) contracts in a high-quality, efficient manner. For example:

1. Inefficient performance of a T&M contract will result in a poor past performance rating. A strong past performance record is vital to a contractor's efforts to secure future work because past performance is a mandatory evaluation factor on which contract awards are based.
2. A contractor could be subject to termination if it fails to perform commensurate with the standard of performance specified in the contract. For example, FAR 52.232-7, Payments under Time-and-Materials and Labor-Hour Contracts, requires the contractor to use its *best efforts* to perform the work specified in the contract within the ceiling price. Failure to provide best efforts could subject the contractor to termination for cause, a drastic sanction that can be accompanied by significant liability and suspension or debarment proceedings.

3. Failing to perform efficiently and effectively makes it less likely that an agency will exercise contract options or award follow-on work to the contractor.

Moreover, T&M contracts, like other forms of contracts, can include performance-based incentives to ensure high-quality performance. Such incentives could be included in the way of service-level credits and bonuses based on the quality of service.

Point 6. Controls Exist To Ensure that Pricing on Commercial T&M Contracts is Fair and Reasonable.

I would like to emphasize that there are also several controls that exist to ensure that pricing on T&M contracts is fair and reasonable.

First, with respect to Multiple Award Schedules contracts, contractors are required to disclose their commercial sales practices upfront to the Government prior to entering into the contract. If the contractor offers better pricing to any commercial customer, the Government will know about it upfront prior to contract formation.

Second, pursuant to the Service Acquisition Reform Act, commercial T&M contracts currently must be awarded on a competitive basis. The forces of competition further help to ensure that contractors are offering competitive rates. In the event that adequate price competition is not present despite the conduct of a competition, FAR 12.209 and FAR 15.403-3 authorize the contracting officer to request that offerors provide information other than certified cost or pricing data to ensure the reasonableness of the pricing.

Statement of ITAA to Section 1423 Acquisition Advisory Panel
August 18, 2005

Third, management techniques provide the Government and the contractor with insight into whether contract performance is on target for satisfying the Government's objectives, including its cost objectives.

Fourth, as previously mentioned, the contracting parties can agree to include performance-based provisions in T&M contracts. A series of incentives and disincentives may further help to ensure that the Government achieves its objectives.

* * * * *

In closing, I would like to add one final observation. There seems to be a tendency by some people to want to add to the plethora of procurement-related rules and safeguards whenever an instance of misuse of the procurement system is reported in the press. For example, recent press reports regarding out of scope task orders and the use of commercial terms on allegedly non-commercial items concern possible violations of rules that already exist. In situations where the issue pertains to the failure to follow the existing rules, ITAA believes that adding new rules fail to address the root cause of the situation and serve only to compound the problem. In our view, many of the recent reports involving the use of improper contract vehicles has more to do with a lack of training and education than it has with any gap or weakness in the existing the set of rules.

I would be pleased to answer any questions you may have.



Mr. Jerry Punderson
19 AUG 2005



Seaport

What is SeaPort/SeaPort-e?

- ⌘ Initiative to improve acquisition of services
 - ⌘ *SeaPort-Program Management, Engineering, Logistics and Financial Management*
 - ⌘ *SeaPort-e—broadly encompasses most services in 22 functional areas*
- ⌘ Three components to the Initiatives
 - ⌘ *Multiple Award IDIQ contracts*
 - ⌘ 21 SeaPort, 654 SeaPort-e
 - ⌘ Task Orders awarded under FAR Part 16, Fair Opportunity to be Considered
 - ⌘ No protest authorized unless task order exceeds the size, scope or period of performance of the contract
 - ⌘ *Web-based procurement portal*
 - ⌘ *Informational publicly available website (www.seaport.navy.mil)*



Seaport

Task Order Process

- ✧ TO award process set forth in contracts
 - ✧ *Choice of technically acceptable, low-cost or best value*
 - ✧ *Must consider price/cost and past performance at minimum for best value*
 - ✧ *Requiring codes provide predominate input to award decision*
- ✧ Completely electronic from requirements generation, through PR, solicitation, award, and administration
- ✧ Procurement portal is web-based and requires only an internet browser for either industry or government access
 - ✧ *Secure system*
 - ✧ *Role-based access controls*
 - ✧ *Supports use of alternate work sites/accommodates travel schedules*



SeaPort

SeaPort History

✂ SeaPort (Original) APR 2001

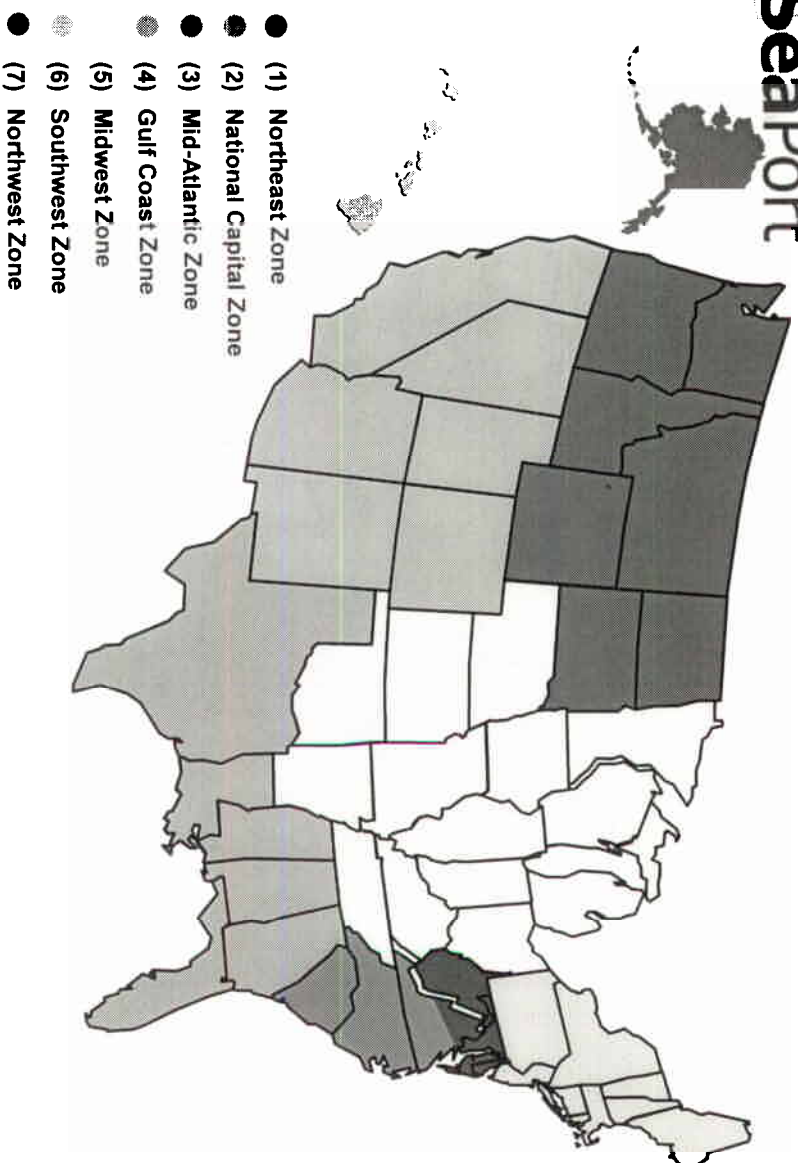
- ✂ *NAVSEA Headquarters Focus*
- ✂ *No Small Business Set-aside opportunity*
- ✂ *Cross-pollination of improved NAVSEA HQ practices and approaches*

✂ SeaPort-e APR 2004

- ✂ *NAVSEA Command-wide Focus*
 - ✂ 151 Prime MACs awarded within 7 geographic zones 05 April 2004
- ✂ *Small Business Set-aside Opportunity*
- ✂ *Cross-pollination of improved NAVSEA-wide best practices and approaches*
 - ✂ Governance Group developed and continues to build upon a concept of operations for task order placement (minimum response times, advance planning information, etc.)
- ✂ *Centralized vehicles- decentralized ordering*
- ✂ *Geographic zones for competition introduced*



SeaPort-e Zones





Solicitations

Task Orders solicited in the zone corresponding to the principal place of performance for the services acquired.

- ✗ *Determination as to which zone should be solicited for a requirement is not governed by the location of the contracting activity, but instead the principal place of performance.*
- ✗ *For task order requirements OCONUS, the zone solicited will be the zone in which the activity resides (ordering office) who has the task order requirement*
- ✗ *Section M of the solicitation clearly identifies the zone solicited.*
- ✗ *All contractors in the applicable zone are automatically notified and provided access to the solicitation*

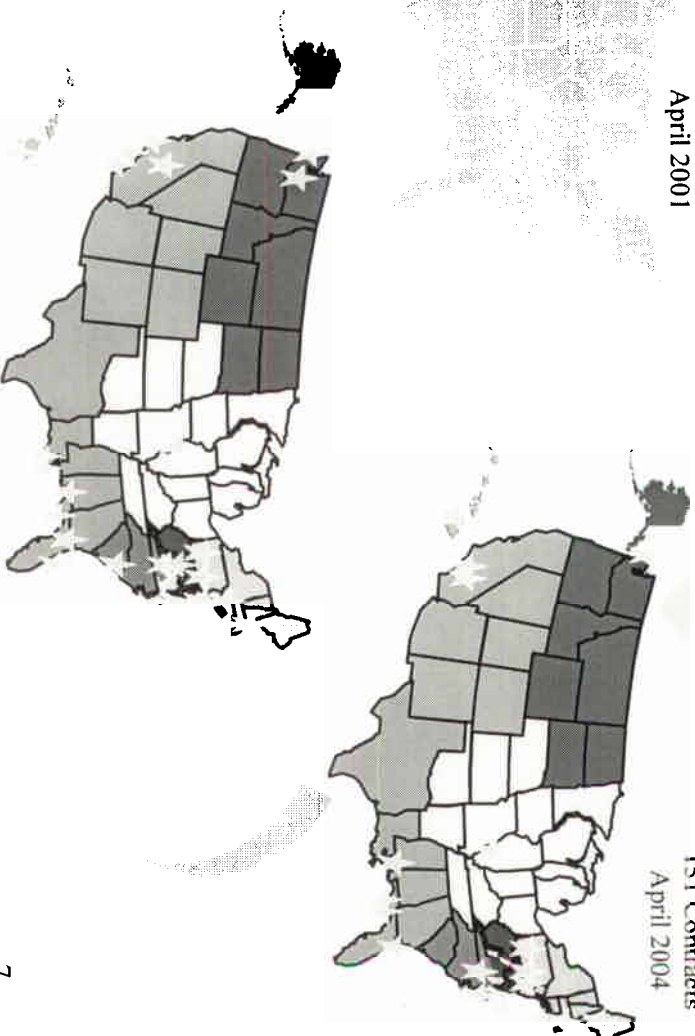


Evolution of SeaPort

SeaPort Original
21 Contracts
April 2001

SeaPort Enhanced
24 Ordering Offices
151 Contracts
April 2004

SeaPort Enhanced -
VS Expansion
50 Ordering Offices
654 Contracts
May 2005





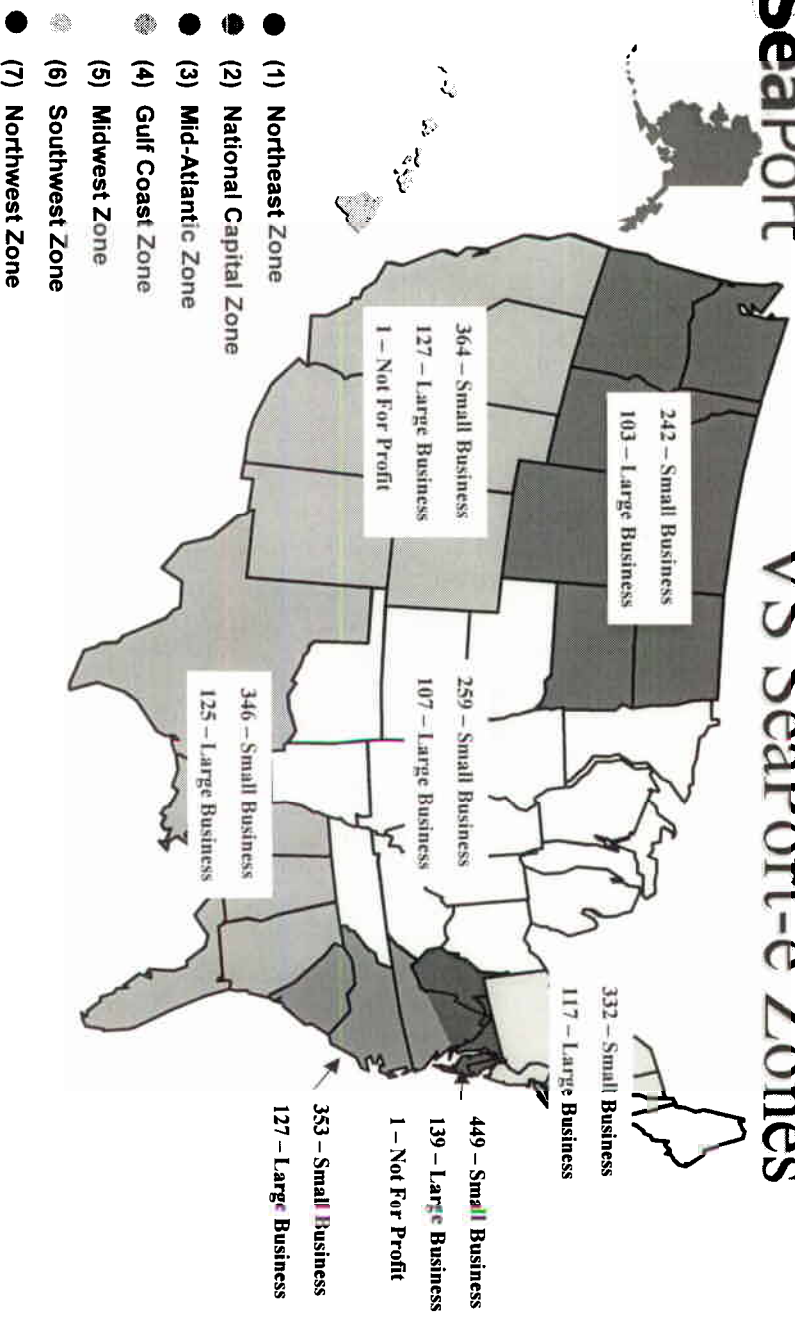
SeaPort

Expansion to other Navy Ordering Offices

- ✍ SeaPort-e+ MAY 2005
 - ✍ *Navy Virtual SYSCOM Focus* – NAVAIR, NAVFAC, NAVSUP, SPAWAR
 - ✍ “Mandatory Acquisition Vehicle of Choice” provides for logical transition from existing vehicles and ability to use other contractual vehicles if it makes good business sense to do so
 - ✍ *Small Business, 8A, HUB-Zone, and SDVOSB Set-aside Opportunities*
 - ✍ *Cross-pollination of improved Navy-wide practices and approaches*
 - ✍ Expansion of the Governance Group to additional ordering offices
- ✍ SeaPort feeds data to
 - ✍ *NAFI (contract distribution)*
 - ✍ *PMRS (individual contract action report)*



VS SeaPort-e Zones





Seaport

Program Benefits

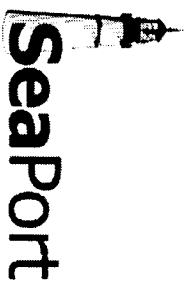
- ✧ Streamlined acquisition process
 - ✧ Synopsis not required
 - ✧ Formal source selection plan not required
 - ✧ Library of solicitation samples available within portal
 - ✧ Relevant past performance information available within portal
 - ✧ Increased visibility into upcoming requirements and easy/immediate electronic access to solicitations for industry (primes and subcontractors)
 - ✧ Seaport procurement system supports on-line evaluations via internet
 - ✧ Individual Congressional notifications not required
 - ✧ Limited protest liability under FAR part 16
 - ✧ Streamlined approach for providing feedback to unsuccessful offerors
 - ✧ Acquisition cycle time reduced from 8-12 months to 60 working days
- ✧ Service quality
 - ✧ Competition discourages complacency
 - ✧ Leveraged buying power magnifies importance of quality past performance history
 - ✧ High quality performance marks on awarded task orders



Strategic Acquisition of Services

SeaPort

- ✦ Common acquisition processes and policy across the Navy
- ✦ Leveraged buying power
- ✦ Rolling admissions provisions provide opportunity for renewal
- ✦ Centralized program administration, decentralized execution
- ✦ Strong small business participation
 - ✦ *Electronic review of requirements by small business specialists*
 - ✦ *Ability to easily set aside competitions for SB/8a/SDVOSB/HUBZone*
 - ✦ *Electronic review of actual subcontracting performance*
- ✦ Electronic, real time reporting and business intelligence
- ✦ Provides a comprehensive approach for navy transition to performance-based service contracting
- ✦ **Cross-pollination of navy-wide best practices and approaches**



Program Results

	SeaPort	SeaPort-e	Total
Task Orders Awarded	186	225	411
Competition	185/186	225/225	410/411
Dollars Obligated	\$1.330B	\$0.302B	\$1.632B
Total Potential Value	\$6.221B	\$2.401B	\$8.622B

✎ Competition

✎ *SeaPort-e policy requires all SeaPort-e task orders to be awarded competitively*

✎ Working to increase the level of competition achieved and reduce number of instances when only one bid is received

✎ Shortened acquisition timeline

✎ *Was 9-12 months, current average: SeaPort = 66 days, SeaPort-e = 67 days*

✎ *Monitoring cycle time, including interim milestones, by location*



Seaport

Savings Achieved

- SECNAY Efficiency and Effectiveness Study of March 2003 estimated cost savings through SeaPort at 7% - 10%

Primary Avenues:

1. Valid vice illusory competition
2. Elimination of prior “Fee for Service” Tax (2% to 5%)
3. Rate Cap concessions derived through market leverage
4. Performance Based contracting creates opportunity to reduce costs via skill mix determination



Seaport

Seaport Savings Examples

⌘ Savings are calculated on a task order basis by requiring codes:

<u>Description</u>	<u>Amount of Savings</u>	<u>Percent</u>
Systems Engineering	\$ 2,512,097	5.0%
Pre-Commission Support for a Ship	\$ 125,000	4.5%
Engineering Services	\$ 11,628,585	7.8%
CIO Services	\$ 11,755,136	9.1%
CHENG Engineering Services	\$ 15,569,867	22.6%
Program Management Services	\$ 18,698,950	19.9%
Program Management and Engineering Services	\$ 7,896,741	14.0%



Small Business Participation

Seaport

- Small business subcontracting reported by industry on-line
- Seaport (original):

- Prime awards: 41 of 186 (22%)*

- Percent of subcontract dollars obligations to small business concerns: goal: 35%, actual: 46%*

- Bottom line: percentage of total program dollar obligations to small business concerns at the prime and 1st tier subcontract level: 23.3% (\$272m)*

- Seaport-e:

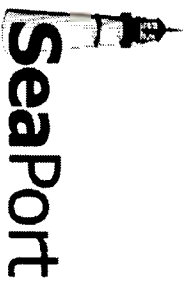
- Prime awards: 91 of 225 (40%)*

- Percent of total dollar obligations to small business concerns at the prime level: goal: 33%, actual: 28%*

- Percent of total dollar obligations to small business concerns at the subcontract level: goal: 20%, actual: 21%*

- Bottom line: percentage of total program dollar obligations to small business concerns at the prime and 1st tier subcontract level: 37% (\$110.8m)*

Prime contract data as of 15 AUG, subcontract data as of 31 MAR



Business Intelligence/ Metrics Captured

- ✧ System generated standard reports
 - ✧ *Numerous filters allow for drill down*
 - ✧ *Reports can be exported into Microsoft office format for further analysis*
- ✧ Data captured on:
 - Cycle time
 - Customer satisfaction
 - Task order performance
 - Evaluations
 - Small Business participation
 - Workload
 - Dollars obligated
 - Expiring options
 - Cost reductions achieved

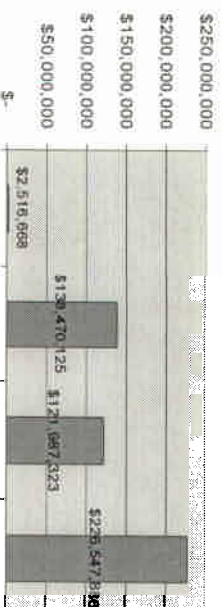
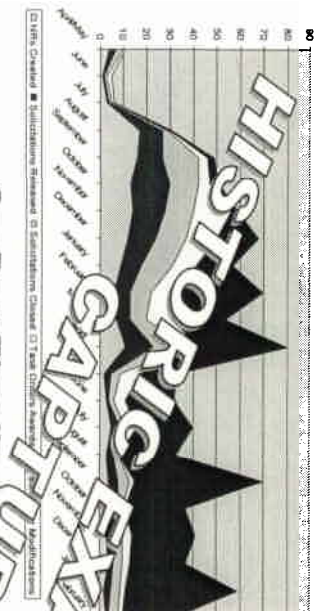


Seaport

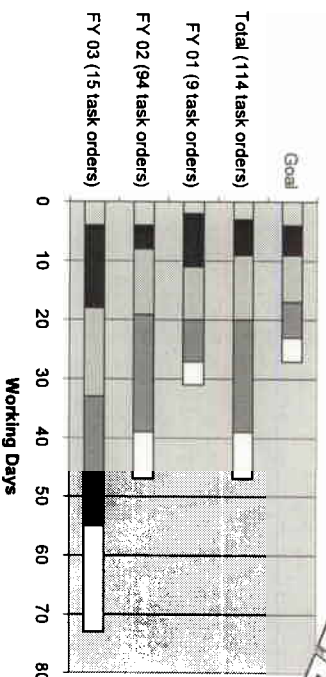
SeaPort Workload

Metrics

SeaPort Dollars Obligated



SeaPort Timeline



MAC Contra	7/20	35.0%
Small Business	7	35.0%
Large Business	13	65.0%
Task Order	29/118	24.6%
Small Business		
Large Business	89	

Total Dollars		
Obligated to SB	\$ 37,145,938	14.1%
FY 01/02	\$ 17,186,973	12.2%
FY 03	\$ 19,956,965	16.4%

*Includes one WOSB, one 8A



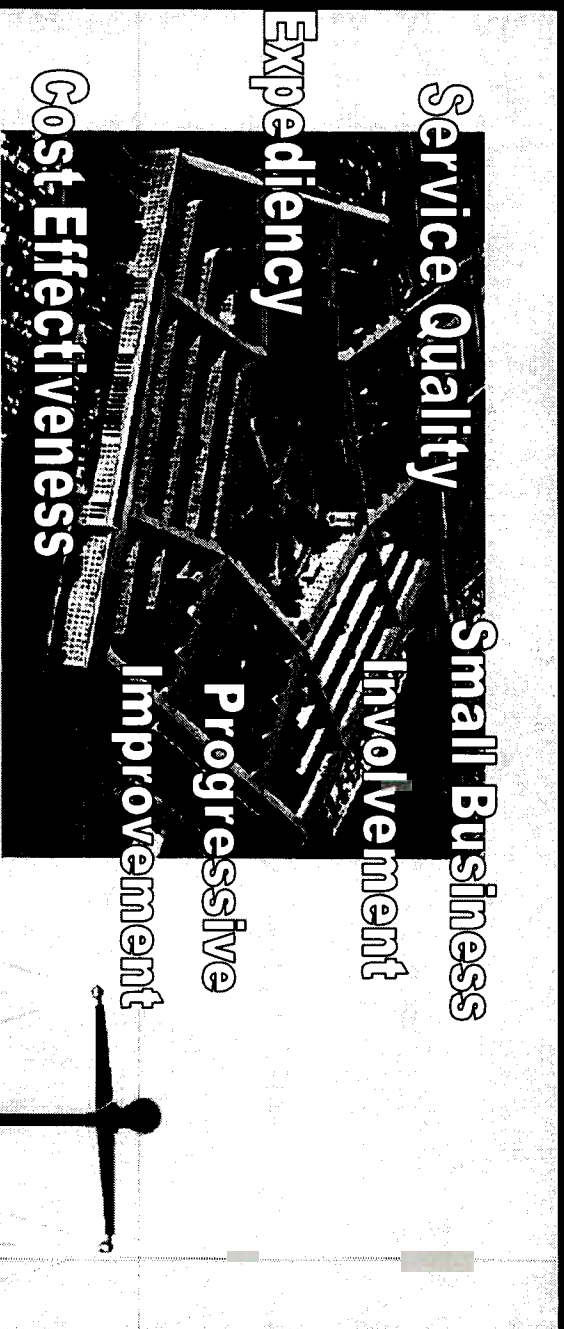
Next Steps

- ✍ SPS Integration
- ✍ FPDS/NG Data Feed
- ✍ Integration with Financial Systems
 - ✍ *Feed long line of accounting into SeaPort*
- ✍ Additional information in industry notifications to allow easier screening/filtering
- ✍ Annual Rolling Admissions
- ✍ *Contract length*



SeaPort Strategy

Striking a Balance



Testimony of
Mark Stelzner
Executive Vice President
EquaTerra Public Sector, LLC
Office of Management and Budget, Acquisition Advisory Panel
August 18, 2005

INTRODUCTION

Good afternoon to you Madam Chair and the distinguished members of the Acquisition Advisory Panel (AAP).

My name is Mark Stelzner, and I represent EquaTerra Public Sector, a business unit focused exclusively on applying commercial sourcing and advisory best practices to the unique requirements of public entities. My background includes the management of hundreds of vendor relationships for a large commercial outsourcer, consulting to government and quasi-government agencies on workforce effectiveness and personnel, as well as the application of shared services techniques to enhance the mission-orientation of public and private entities alike.

Let me begin by thanking the Panel for their commitment to promoting thought leadership in the award and administration of Federal contracts. Your work will help ensure effective, efficient and fair outcomes in government contracting. These same values underpin the approach my organization, EquaTerra, takes in helping public and private entities maximize operational efficiency gains.

EquaTerra's advisors have led over 700 transformational sourcing engagements for the most complex environments in the world. In the past twelve months alone, we have advised on over \$10 Billion in total contract value. In the commercial sector,



one out of every two business process outsourcing (BPO) engagements in the world is led by an EquaTerra advisor.

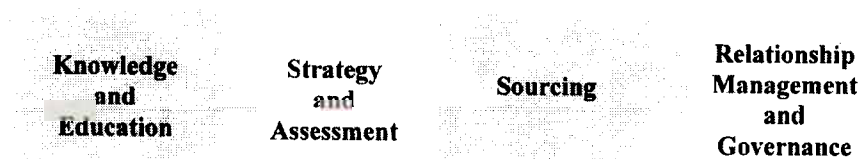
We understand that the public sector has unique requirements which at times are largely unmatched among commercial entities. Today I intend to focus the Panel's attention on three specific commercial best practices that do have direct application to the success or failure of public sector acquisition and sourcing:

- 1) First, the deployment of a lifecycle approach to ensure that the cost savings envisioned are truly realized;
- 2) Second, applying governance and relationship management as a critical and effective means for value assurance and enhancement; and
- 3) Finally, the critical nature of independent, conflict-free advice and guidance as an accelerant to attaining mutually beneficial outcomes

I. THE LIFECYCLE APPROACH

The panel has heard testimony from numerous experts on the important issue of what I characterize as "the transaction" - namely the means, processes, governing circulars and suggested enhancements to the current mechanism of acquisition for goods and services. Let me suggest that although this is a critical component warranting ongoing investigation, strategic acquisition requires a multi-faceted, lifecycle approach to maximize operational efficiencies and cost savings. This approach has proven time and again to drive significant results in the commercial sector.

This lifecycle is comprised of four main phases:



Phase I: Knowledge and Education



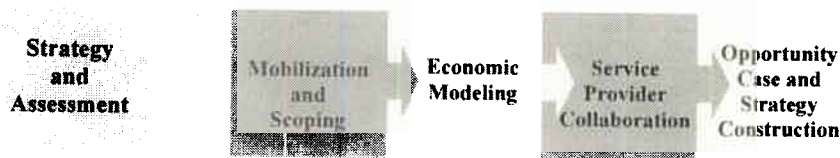
Phase I of the four-phase lifecycle is knowledge and education. As public entities struggle to simultaneously reduce costs and increase quality, the time pressures for delivering results often reduce emphasis on knowledge capture and education.

EquaTerra's experiences demonstrate the need for three critical steps to ensure organizations have the knowledge that is the foundation of any successful initiative:

- 1) First, the utilization of executive-level peer groups to promote the sharing of relevant information, trends, developments and best practices. These networks typically assemble via forums, conferences, webcasts, and joint research efforts and often involve the collaboration of traditional competitors across similar industries.
- 2) Second, independent research and analysis should be sanctioned to review, interpret and apply market-leading concepts, industry trends and best practices. This can avoid the costly mistake of acquiring goods or services which may be rapidly commoditized, rendered obsolete or trending downward in further research and development investments.
- 3) Finally, capturing business intelligence and measurement benchmarks around service delivery alternatives, operational costs, quality and timeliness in both the pre and post-deployment environments.

Phase II: Strategy and Assessment

Provided that the findings captured during the Knowledge and Education phase present a compelling business case for further exploration, Phase II - the Strategy and Assessment phase - begins. This phase includes four specific steps: 1) mobilization and scoping; 2) economic modeling; 3) service provider collaboration; and 4) opportunity case and strategy construction.



1) Mobilization and Scoping:

- Begins with the identification of internal and external stakeholders, the decision process, and criteria for continuation. This early establishment of role clarity can prevent unwanted delays and eliminate potential stalemates down stream;
- Develop a strong definition of initial options, parameters and scope. Identifying issues or problems clearly out of scope is at times as important as articulating what is open for consideration;
- Identify related projects, ongoing initiatives and previously completed tasks of relevant application. This will eliminate duplication of effort, “shadow” projects and surprises at later stages;
- And finally, develop an initial project plan and mobilize a project team which has both ownership and accountability for the timely execution of deliverables.

2) Economic Modeling

Once mobilization and scoping is complete, entities should begin the second step in strategy and assessment by identifying true baseline costs for accurate economic modeling. This is the benchmark against which all future gains will be measured. The public sector can adopt several practices from the private sector to achieve this sometimes daunting task:

- Begin by developing or leveraging existing data collection models, templates and processes;
- Identify headcounts and costs that can or will be impacted;
- Define best practice gaps against benchmark data collected during the knowledge and education phase;
- Segment service delivery model alternatives for comparative and projected benefit analysis¹; and
- Define scenarios and sensitivities, including agreed-upon assumptions for validation and evaluation.

3) Service Provider Collaboration

The next step in the strategy and assessment phase is service provider collaboration. This is often where public and private entities alike may issue a Request for Information (RFI)². The desired outcome should be

¹ Typical service delivery model alternatives include – a) the current trajectory; b) internal process transformation; c) consolidation, economy of scale and/or shared services creation; d) the use of inter or intra-agency service providers; e) public/private partnerships; or f) holistic outsourcing.

² EquaTerra's experience shows that an RFI only be issued if – a) the market for the services to be sourced is emergent and the capabilities of potential service providers are unknown and/or rapidly changing; b) the client's procurement organization either controls or is very influential in the process, and thus a policy exists that RFIs should be issued in every case; or c) the client requires a comprehensive market review to socialize the market capacity and the capabilities of potential service providers with key stakeholders, as part of a buy-in process.

early collaboration with the service provider community to attain clarity relative to:

- Service provider capabilities;
- Alternative service delivery models not previously contemplated;
- Market interest in the scope, size and complexity of the opportunity; and
- Any inherent risks or limitations to proceeding with a sourcing or acquisition strategy.

4) Opportunity Case and Strategy Construction

The final step in this phase is opportunity case and strategy construction. This is where qualitative benefits and risks are summarized, the desired service delivery model strategy is finalized, communication and change management strategies are outlined, the next phase plan is defined, approval to proceed is secured, and resources for sourcing and acquisition are allocated.

Bear in mind that all of this activity precedes any formal procurement mechanism while preserving the sanctity of existing regulatory compliance and acquisition policies.

It is not unusual for commercial entities to reach this point only to realize that a significant economic business case was not achieved and therefore further investment is unwarranted. Typically, commercial organizations must identify anticipated savings of 20% over existing baseline costs for continuation to the Sourcing phase.

Phase III: Sourcing



Phase III of the lifecycle approach is sourcing. In respect for the Panel's time and prior testimony, I will spend little time discussing this portion of the lifecycle. EquaTerra has significant experience in this area and would be happy to discuss our philosophy and approach as desired³.

II. RELATIONSHIP MANAGEMENT AND GOVERNANCE

**Relationship
Management
and
Governance**



I would now like to turn to perhaps the most vital and often overlooked phase of lifecycle sourcing—relationship management and governance. Several years of research have shown that sourcing relationships with effective governance organizations deliver more value than those that do not⁴. Benchmarking indicates that effective sourcing governance costs between 3% and 10% of the total contract value⁵ – but that only tells part of the story. What are the elements that differentiate effective governance from contract or supplier management? And what is the “value add” these elements provide -- or the “value lost” when they are missing?⁶

³ EquaTerra's philosophy and core tenets as applied to over 700 sourcing transactions globally includes – a) We believe focus should be placed on viable, long-term relationships; b) Successful and balanced relationships are achieved by being collaborative, enabling convergent behaviors, and encouraging mutual respect; c) All parties should abandon adversarial behaviors; d) our client's best interests are served if we achieve a good, safe, fair and sustainable outcome for both parties; and e) the lifetime success of sourcing agreements is critically dependent on effective relationship management and governance.

⁴ “Companies that have created effective vendor management organizations are finding cost savings across the enterprise... up to 15% of the total contract value” Giga, *IT Trends*

⁵ Gartner Group, Meta Group, IDC, EquaTerra (collective findings)

⁶ Several comments extracted from Cathy Hyatt's article, “Effective Outsourcing Governance”. Ms. Hyatt is an EquaTerra advisor with more than 20 years experience in relationship management and governance.

The principles of relationship management and governance are not new, and tend to work best when matched to the complexity of a particular sourcing agreement. Elements of sourcing complexity include the functional scope, geographical scope, the nature of the work to be performed, and the degree of internal organizational and cultural change required to deliver the expected results.

This process combines traditional contract and supplier management processes, such as contract administration and financial oversight, with key elements that have been shown to prevent the “value leakage” common to poorly governed sourcing agreements. EquaTerra recognizes three steps that define good governance – 1) relationship management; 2) service delivery management; and 3) joint planning.

1) Relationship Management

Let me begin with relationship management, which describes the work associated with the continuous alignment of the expectations of all stakeholder groups⁷. Unfortunately, responsibility for relationship management is often assigned as a secondary consideration or overlooked entirely. With so many diverse stakeholders, effective relationship management cannot be delivered as a part-time job.

Complex agreements are especially dependent upon strong relationship management to both adapt to changes unanticipated by the contract and achieve long-term goals. Building sufficient relationship management strength into the governance organization at its inception will help trust to grow. However, it is important to keep in mind that not all relationship managers are created equal. Effectively managing

⁷ At a minimum these stakeholder groups include: the service recipients, the service provider(s), the governance organization, functional units (both sourced and retained), the business unit leaders, and the client company's executives.

the relationship between service users and the service provider requires both commitment and the right people – people with subject matter experience and organizational credibility⁸. Poor relationship management can quickly lead to client dissatisfaction with the service provider. This may grow as new projects and change-orders for services are inadequately specified and ultimately fail to meet the business units' true requirements.

2) Change Management

The next step of good governance is effective change management. Change management in sourcing governance is a bifurcated process, including:

- 1) Both the adaptation of a static service specification, as documented in a contract, to ever-changing organizational needs; and
- 2) Changing the organizational culture and internal dynamics sufficiently to obtain the expected results.

While a traditional contract administration group will be capable of adapting a contract to change over time, they may lack the skills and talents needed to manage organizational change. Vision, influence, creative solution development, coaching, strong internal relationships, and a commitment to results and perseverance are needed to fully leverage the capabilities of the supplier and to foster continuous improvement through cultural adaptation.

⁸ A multi-state insurance company that outsourced its entire information technology (IT) organization learned a difficult lesson when they tried to save money by staffing these key roles with very junior business people. While these "Relationship Managers" tried very hard to communicate the benefits of the agreement to their business clients, they were largely ignored. Lacking both IT skills and the credibility that comes with experience, they were unable to translate the agreement into business-meaningful terms their clients could understand. And when their business unit clients asked them to develop new project requirements or a business case for changing the agreement, they were at a loss.

3) Joint Planning

The third and final lesson of good governance is the use of joint planning. Commonly overlooked is the opportunity to conduct joint strategic planning sessions, where the leaders of both the client and provider come together to understand each other's strengths and goals and to build a shared future vision.

Circumstances can change dramatically for agencies involved in transformational or transactional agreements. Divestitures, reorganizations, or mergers and acquisitions affecting your supplier can create the kind of change that throws previous goals into question. A governance organization empowered to develop and implement a shared planning process can go a long way toward maintaining the health of the relationship and to ensuring its ability to achieve the agreement's goals over the longer term. Such a process, however, is an all-too-frequently overlooked aspect of sourcing governance⁹.

The Impact

These key elements of effective relationship management and governance can make the difference between a successful sourcing relationship and an expensive failure. EquaTerra's vast experience shows several quantifiable effects which can erode the total potential value gained from the sourcing relationship by more than 50%¹⁰.

⁹ Other key governance elements that are commonly overlooked include: a) the ability to develop and maintain a base case or financial model which describes the expected financial savings over the term of the agreement; and b) performance management capabilities needed to facilitate the continuous improvement of service levels over the term of the agreement.

¹⁰ Value erosion can include: a) Operational Challenges (10-20% value loss due to duplication of effort and wasted resources); b) Performance Challenges (20-30% value loss due to poor problem management and performance below contractual expectations); and c) Portfolio Management Challenges (5-10% value loss due to untapped opportunities and/or vendors deploying against conflicting or inappropriate goals).

By including the key elements of relationship management, change management and joint planning as responsibilities of a governance organization that is matched in size and scope to the complexity and goals of the sourcing agreement and staffed with highly skilled professionals, public agencies can substantially decrease the risks of sourcing while increasing the intended value proposition to the organization at large.

III. INDEPENDENT, CONFLICT-FREE ADVICE AND GUIDANCE

Finally, I'd like to discuss the importance of independent, conflict-free advice and guidance. In the July 2005 GAO report on Interagency Contracting¹¹, the GAO assessed whether franchise funds ensured fair and reasonable prices for goods and services, whether DOD analyzed purchasing alternatives, and whether DOD and franchise funds ensured value by defining contract outcomes and overseeing contractor performance. To paraphrase GAO's findings, it was found that GovWorks and FedSource – two such franchise funds – generally added substantial work and costs, did not ensure fair and reasonable competition, did not conduct price analyses, and at times paid contractors higher prices for services than established in contracts without justification. Furthermore, GAO has designated management of interagency contracting as a government-wide high risk area¹².

To avoid these costs, mitigate risk and ensure that an agency's acquisition of goods and services are beyond reproach, is it highly recommended that independent, conflict-free advisory services be required across federal procurement.

¹¹ GAO-05-456

¹² GAO-05-207

Federal entities benefit from acquisition advisory services which:

- 1) Convey commercial best practices;
- 2) Accurately capture the motivation and capabilities of potential service providers without fear of collusion or potential protest;
- 3) Eliminate the common practice of conflicted consultants advising a federal agency on service delivery models; and
- 4) Are more cost effective than interagency providers. Typical commercial advisory and governance services represent a fractional cost relative to the savings derived.

Sample questions to ask either your interagency provider or existing advisory consultant include:

- 1) What fee basis have you established for your advisory services?
- 2) Do you, or your parent, recognize revenue or fees of any type from potential service providers?
- 3) Do you intend to offer products or system integration services related to the outcome of your advisory engagement?
- 4) What amount of time does your organization spend assessing commercially viable best practices for application to our needs?
- 5) What tools, methodologies and approaches will be customized to the unique circumstances of my agency's needs?

As you consider the best methods for sourcing goods and services, do not lose site of the value that private sector advisory firms such as EquaTerra can offer government agencies in executing lifecycle sourcing and effective relationship management and governance. This panel could provide agencies with guidelines to ensure that the advisors they use are truly independent, conflict-free and up to the task.



Measurable process improvement is the most important outcome to be attained, regardless of the service delivery model applied. Whether via internal transformation, shared services creation, the selection of intra-governmental providers (e.g., the HR Lines of Business), or outsourcing, quantifiable benefits are to be gained by applying conflict-free advice and guidance through a lifecycle approach.

In closing, I would like to thank the Panel for the opportunity to present EquaTerra's knowledge and experiences. It is my hope that this has been a productive use of your time and that focusing attention on a lifecycle approach to sourcing, the power of relationship management and governance, and the value of independent and conflict-free advice and guidance aids the Panel in furthering acquisition thought-leadership among federal entities. At this time I would be happy to answer any questions the Panel may have. Thank you.

2 Attachments:

Attachment 1 – Biography, Mark Stelzner

Attachment 2 – Blue Cross Blue Shield Rhode Island Article (CEO Magazine)